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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 27th February, 1987:—

BILL No. 106 OF 1986

A Bill further to amend the Foreigners Act, 1946.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Foreigners (Amendment) Act, 1986.

Short title.

31 of 1946

2. In section 9 of the Foreigners Act, 1946, for the words beginning with the words "the onus of proving" and ending with the words "lie upon such person" the following words shall be substituted, namely:—

Amend-
ment of
section 9.

"the onus of proving that such person is a foreigner or is a foreigner of such particular class or description, as the case may be, shall lie upon the authority making such order or giving such direction under this Act".

STATEMENT OF OBJECTS AND REASONS

Section 9 of the Foreigners Act, 1946, in deliberate deviation from the Indian Evidence Act, places the burden of proof of citizenship on the person who is alleged to be a foreigner but who claims to be a citizen. This is contrary to the principles of natural justice and the normal rules of evidence.

This has in practice led to harassment and persecution of many citizens, opened the doors for arbitrary action and consequent corruption. This has caused hardship to the illiterate sections of our people. This provision is, therefore, against public interest.

It is strongly felt that no authority empowered under the Act should give a direction or pass an order under the Act declaring a person to be a foreigner or a foreigner of a particular class or description, until the authority so empowered has fully satisfied itself regarding the facts of the case on the basis of supporting evidence which would stand judicial scrutiny, so that he is in a position to justify his conclusion and action in any judicial or quasi-judicial proceeding that may arise. In brief, the burden of proof should lie on the accuser and not on the accused.

Hence this Bill.

NEW DELHI;
July 29, 1986.

SYED SHAHABUDDIN

BILL NO. 125 OF 1986

A Bill further to amend the Registration Act, 1908.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Registration (Amendment) Act, 1986.

Short
title and
extent.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir but section 4 hereof shall apply to the State of Jammu and Kashmir also.

16 of 1908. 2. In section 2 of the Registration Act, 1908 (hereinafter referred to as the principal Act), after clause (9), the following clause shall be inserted, namely:—

Amend-
ment of
section 2.

53 of 1952. ‘(9A) “Notary” means a notary duly appointed under the Notaries Act, 1952, and the Notaries Rules, 1956, or a notary or notary public of a country with which reciprocal arrangements for recognition of notarial acts done by the notary of that country have been made and so declared by the Central Government under section 14 of the Notaries Act, 1952;’.

Amend-
ment of
section
30.

3. In section 30 of the principal Act, sub-section (2) shall be omitted.

Amend-
ment of
section
33.

4. In section 33 of the principal Act, in sub-section (1),—

(i) in clause (a), after the words “Registrar or Sub-Registrar”, the words “or a Notary” shall be inserted; and

(ii) in clause (b), after the word “Magistrate”, the words “or a Notary” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Section 30(2) of the Registration Act, 1908, in its present form enables and empowers the Registrars of the Presidency towns to register a document relating to immovable properties irrespective of its situation in the whole of India whereas outside Presidency towns, the Act makes it imperative to get such documents registered in the District or sub-district where the property or part thereof is actually situated. In the first instance the existing provision denies a privilege and opportunity to the States which have no Presidency towns and in the second instance it denies and deprives the States having no Presidency towns from sizable revenues which would have been their had this sub-section not been in the Registration Act, 1908. The existing provision also contravenes the principle of equal treatment to States by the Centre and also denies equal protection of laws to the States as envisaged and guaranteed by the Constitution.

The Law Commission of India in its 34th Report on the Registration Act, 1908, has suggested that the powers of attorneys purported to have been executed before and authenticated by a Notary Public should also be acceptable under section 33 for the purposes of section 32 of the Act. Section 85 of the Evidence Act, 1872 attaches an unqualified presumption of correctness to the powers-of-attorney authenticated by a Notary. Whereas the validity of powers-of-attorney executed before and authenticated by a Notary in India for admitting the execution of a document before the Registrar or sub-Registrar is accepted, difference of opinion exists on the point of presentation of documents for registration by an attorney deriving authority from a powers-of-attorney authenticated by Indian Notaries. Moreover, whereas clause (c) of sub-section (1) of section 33 of the Act bestows an impress of authenticity on the powers-of-attorney authenticated by the Notary Public of a foreign country, it tends to discredit a like document authenticated by the Indian Notaries. The powers-of-attorneys authenticated by the Indian Notaries are recognised by various Governments of alien countries but they stand neglected at home. The present form of section 33 attaches a stigma to the credibility of Indian Notaries who find themselves in an embarrassing situation.

The Bill seeks to remove these anomalies from the Registration Act, 1908.

NEW DELHI;
October 15, 1966.

RAMASHRAY PRASAD SINGH

BILL NO. 138 OF 1986

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Indian Penal Code (Amendment) Act, 1986.

Insertion
of new
section
309A.

2. In the Indian Penal Code, after section 309, the following new section shall be inserted, namely:— 45 of 1860.

Act of
attempt-
ing to
commit
suicide by
persons
suffering
from
physical
ailment,
etc.

“309A. Whoever, suffering from acute physical ailment or an incurable disease or mental disorder or torture or a decrepit physical state induced by old age or disablement, attempts to commit suicide, shall not be guilty under section 309.”.

STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code was enacted nearly 126 years back. Some of its provisions have become outdated and need changes. One such provision is section 309 which deals with punishment for attempt to commit suicide.

Those who attempt to commit suicide because of acute physical ailment, incurable disease, torture or a decrepit physical state induced by old age or disablement need a nursing home and not prison to prevent them from making the attempt again.

Those who attempt to commit suicide, on account of mental disorders, require psychiatric treatment and not confinement in prison cells where their condition is bound to worsen.

Hence it is proposed to amend the Indian Penal Code to provide that these persons are not punished for attempting to commit suicide.

Hence this Bill.

NEW DELHI;

V. SOBHANADREESWARA RAO.

October 23, 1986.

BILL No. 140 OF 1986

A Bill to provide for constitution of a Film Board for regulation of sale and distribution of cinematograph films and for matters connected therewith.

WHEREAS presently there is no law made by Parliament to regulate sales and distribution of films;

AND WHEREAS such sale and distribution of films generate black money;

AND WHEREAS it is the responsibility of the Central Government to regulate such sale and distribution of films in order to check the flow of black money;

AND WHEREAS it is considered necessary and expedient in the public interest that sale and distribution of films is regulated;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Shot
title, extent
and com-
mencement.

1. (1) This Act may be called the Cinematograph Films (Distribution) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) 'Board' means Film Board constituted under section 4;

37 of 1952.

(b) 'certificate' means a certificate issued under section 5A of the Cinematograph Act, 1952;

(c) 'cinematograph' includes any apparatus for the representation of moving pictures or series of pictures;

(d) 'film' means a cinematograph film;

(e) 'prescribed' means prescribed by rules made under this Act.

3. No film, in respect of which a certificate has been issued for public exhibition, shall be distributed or sold otherwise than under the authority of the Board constituted under section 4 and in accordance with the provisions of the scheme or schemes framed under this Act.

Sale and distribution of films.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Film Board'.

Film Board.

(2) The Board shall consist of a Chairman and ten other members to be appointed by the Central Government.

(3) The terms and conditions of the service of the Chairman and the members of the Board shall be such as may be prescribed.

5. (1) The Board shall administer the scheme or schemes framed under section 6 for regulating the sale and distribution of films.

Functions of the Board.

(2) The procedure for the working of the Board shall be such as may be prescribed.

6. (1) The Central Government shall by notification in the Official Gazette, frame a scheme or schemes to regulate the sale and distribution of films and matters connected therewith.

Scheme for sale and distribution of films.

(2) A scheme made under sub-section (1) may, with the prior approval of the Central Government, be modified or amended or superseded, by a new scheme, by the Board, by notification in the Official Gazette.

7. If any person contravenes, or aids or abets in contravention of, any provision or rules or schemes made under this Act, he shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine and the film, in respect of which contravention has taken place, shall be forfeited by the Government.

Penalty.

8. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms and conditions of service of the Chairman and members of the Board constituted under section 4;

(b) the administrative arrangements with regard to the sale and distribution of films and monitoring of information thereto;

(c) the setting up of office/offices and appointment of officers and staff for the Board;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It is an accepted fact that black money is causing havoc to the economy of the country and increasing the sufferings of the common man. It is also a known fact that the film industry is one of the major sources of generation and accumulation of black money. It is felt that if the distribution and sale of films for public exhibition is regulated by an authority functioning under the Central Government, the generation and accumulation of black money by film industry, will be checked, if not altogether eliminated.

Since accumulation of black money is assuming serious proportions, it is time that the Central Government took steps to eliminate it. Hence it is considered necessary and expedient in the public interest that Parliament enacts law to regulate sale and distribution of films in order to check the flow of black money.

Hence this Bill.

NEW DELHI;
November 3, 1986.

K. RAMAMURTHY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of a Board to be called the Film Board. It also provides for appointment of a Chairman and ten other members. Clause 6 provides that the Central Government shall frame a scheme or schemes for regulation of sale and distribution of films. Clause 8 provides for conditions of service of Chairman and members of the Board and administrative arrangements with regard to sale and distribution of films. It further provides for setting up of office/offices of the Board and for appointment of officers and staff for the Board. The Bill, if enacted, therefore, would involve expenditure from the Consolidated Fund of India. It is not feasible to make any definite estimate of the expenditure. It is, however, likely to involve an annual recurring expenditure of about rupees ten lakhs from the Consolidated Fund of India.

A sum of non-recurring expenditure of about rupees five lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill provides for the making of rules for giving effect to the provisions of the Bill. The matters in respect of which rules may be made pertain to administrative details or procedure and as such the delegation of legislative power is of a normal character.

BILL No. 1 OF 1987

A Bill to provide all citizens with houses, essential commodities at a cheaper rate and to provide job atleast to one member of each family.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizens Welfare Act, 1987.

Short title
and Com-
mencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Every citizen shall be provided with a house.

Provisions
of houses
to all
citizens

10 of 1955.

3. Every citizen shall be supplied essential commodities as defined in the Essential Commodities Act, 1955, at a reasonable price to be fixed by the Central Government.

Supply of
essential
commo-
dities
to all
citizens
at a
cheaper
rate.

4. Atleast one member of each family shall be provided with employ-
ment by the Central Government.

Provi-
sion of
job to
~~one~~
member
of each
family.

STATEMENT OF OBJECTS AND REASONS

There are millions of people in India who have no shelter. They live in open places and often fall victims to cold and heat. There are equal number of people who have no food to eat. There are millions of people whose income is less than one rupee per day and they have to feed atleast three to four members of their families. There are also millions of people who are unemployed and have no means to earn their livelihood or feed their family members. As a result, large number of people have resorted to begging and many have taken to robbery and dacoity. Many people have fallen victims of anti-social activities organised by foreign elements. Therefore, there is a need to have some legislation which should provide every citizen with shelter, essential commodities at a cheaper rate and job atleast to one member of each family.

Hence this Bill.

NEW DELHI;
November 6, 1986.

G. S. BASAVARAJU

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all citizens of the country shall be provided with houses. Clause 3 provides that all citizens shall be supplied essential commodities at a cheaper rate. Clause 4 provides that atleast one member of each family shall be provided with employment. The Bill, if enacted, would, therefore, involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees one hundred crores per annum is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crores is also likely to be involved.

BILL NO. 2 OF 1987

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1987.

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the day the Bill is introduced in the House of the People.

45 of 1960.

2. After Chapter VA of the Indian Penal Code, the following chapter and sections thereunder shall be inserted, namely:—

Insertion of
new Chap-
ter VB.

"CHAPTER VB

OF OFFENCES RELATING TO FOREIGN EXCHANGE

46 of 1973.

120C. Whoever, within or outside India, aids, or abets, in segregating of foreign exchange in a foreign country in contravention of any of the provisions of the Foreign Exchange Regulation Act, 1973, shall be guilty of the offence of criminal conspiracy and shall be visited with penalty as provided in section 120B.

Criminal
conspiracy
in foreign
exchange.

120D. Whoever manipulates documents either by committing an act of under-invoicing or of over-invoicing with a view to segregate foreign exchange in violation of any of the provisions of the Foreign Exchange Regulation Act, 1973, or any other law for the time being

Penalty
for mani-
pulation of
documents.

in force to regulate inflow and outflow of foreign exchange shall be punished with imprisonment for a term of twenty years and shall also be liable to fine which may extend to ten times the value involved in the act of manipulation of documents.

Penalty
for segrega-
tion of
foreign
exchange.

120E. Whoever is found to have kept and maintained secret accounts in foreign banks abroad in his own name or a firm in which he is interested or in the name of any relation or employee or associate in business, industry, profession, politics or any other person with the intention of segregating foreign exchange in violation of any provision of the Foreign Exchange Regulation Act, 1973, or any other law for the time being in force to regulate inflow or outflow of foreign exchange, shall be punished with rigorous imprisonment for a term of twenty years and fine which may extend to ten times of the foreign exchange detected to have been segregated.

Penalty
not to be
concur-
rent.

120F. Notwithstanding anything contained in any other law for the time being in force, if a person is punished for offences under more than one section of this Chapter, the punishment shall not run concurrently.

Application
of the
Foreign
Exchange
Regulation
Act, 1973
not
barred.

120G. The provisions of this Chapter shall be operative without prejudice to any penal provision contained in the Foreign Exchange Regulation Act, 1973, and any action taken or proposed to be taken under that Act."

46 of 1973.

STATEMENT OF OBJECTS AND REASONS

The evil of secret segregation of foreign exchange is causing the biggest drain on the country's economy. Initially, it was confined mainly to businessmen. Later on, certain unscrupulous politicians with some clout, disloyal bureaucrats and business executives and dishonest persons in certain professions joined hands with the businessmen in illegally keeping their wealth outside the country. Right from 1947, when the Foreign Exchange Regulation Act was enacted, these people have been cheating the country by conspiring with foreign sellers or buyers or others in manipulating documents and diverting enormous amounts of money to their secret accounts in foreign banks. The law enacted in 1947 was considered inadequate and amended from time to time till it was replaced by the present Foreign Exchange Regulation Act in 1973 after taking into consideration the recommendations of the Study Team on "Leakage of Foreign Exchange through Invoice Manipulation" and/or the Law Commission's recommendations made in their 47th Report on the "Trial and Punishment of Social and Economic Offences". However, the clandestine outflow of foreign exchange has not declined. It has, rather increased as the International Monetary Fund Study concludes.

The offence of cheating the country of its legitimate foreign exchange is more heinous and grave than offences like murder and dacoity. It upsets and damages the economy of the entire working people who are engaged in production of goods and materials. It is, therefore, felt that if this evil has to be curbed, it could be done only if severe punishment is visited to the offenders. Punishment for such offences has to be exemplary and not merely reformatory. Hence, all those who aid or abet or connive at, in the commission of acts violating the foreign exchange regulation law should also be punished for "criminal conspiracy". Further, not only keeping and segregating foreign exchange, but also the act of manipulating documents leading to clandestine segregation of foreign exchange should be treated offence requiring severe punishment.

Hence the Bill seeks to provide for punishment for acts and omissions in relation to secret segregation and diversion of foreign exchange.

NEW DELHI;
November 18, 1986.

K. RAMAMURTHY

SUBHASH C. KASHYAP,
Secretary-General.

